Supreme Court, U.S.
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In The
Supreme Court of the United States

Samuel Kaye Shortridge,

Petitioner,

v.

No. _____

The State of Michigan,

Respondent.

Petition for Writ of Certiorari to the Supreme Court of the United States of America From The 28th District Court Of Michigan

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PETITION FOR WRIT OF CERTIORARI

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Questions Presented For Review

I.

Was the arrest of Samuel Kaye Shortridge valid? Should Judge Kandrevas have granted defendant's motion to dismiss under *Map v Ohio*?

II.

Quite apart from the issue of whether they had probable cause, did the officers, who were Southgate policemen, have legal authority to arrest Samuel Kaye Shortridge in the city of Taylor when they were not in hot pursuit of him and he was not on a boundary road between Southgate and Taylor when arrested and when the officers had been driving to his home when they saw him?

III.

Did Judge Kandrevas err when he refused to exclude Samuel Kaye Shortridge's statement when he was not given a Miranda warning?

IV.

Was Samuel Kaye Shortridge denied his due process rights and equal protection of the law when the government kept dismissing the charges against him and then refiling them?

V.

Was the court's ruling that the jury would be told that the officers received a "bol" that "this type of vehicle had allegedly been involved in an incident, but that the content of the conversation would not be revealed to the jury particularly when the original declarant had never been identified and had disappeared, and that the statement was based on quadrule hearsay, constitute a violation of Samuel Kaye Shortridge's fourteenth amendment right to due process and equal protection of the law?"

Statement Of Grounds On Which Jurisdiction Is Invoked

Petitioner, Samuel Kaye Shortridge, seeks review of the May 30, 2006 Order of the Michigan Supreme Court which denied leave to appeal the January 5, 2006 Order of the Michigan Court of Appeals which denied leave to appeal the October 28, 2005 Order of Wayne County Circuit Judge Craig S. Strong which denied leave to appeal the February 10, 2005 Order Of Conviction by 28th District Court Judge James A. Kandrevas.

Judge Kandrevas' decision was contrary to the Fourteenth Amendment of the United States Constitution and to the determinations of this Honorable Court in *Mapp vs. Ohio*, 367 U.S. 643; 81 S. Ct. 1684, 6; L Ed.2d 1081 (1961), *Barker vs. Wingo*, 407 US 514, 92 S. Court 2182; 33 L Ed. 101 (1972) and *Miranda vs. Arizona*, 394 U.S. 436, 86 S. Court 1602 (1966)

Thus jurisdiction for review by this Honorable Court is appropriate under 28 USC 1257 and Supreme Court Rule 10.

Constitutional Provisions And Statutes Involved

APPLICABLE CONSTITUTIONAL PROVISIONS: U.S. CONSTITUTION, AM. XIV

Section 1. Citizens of the United States.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United State; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

Amendment 4

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment 5

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment

of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment 6

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime

shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of counsel for his defense.

Opinions Below

May 30, 2006 Order of the Michigan Supreme Court

January 5, 2006 Order of the Michigan Court of Appeals

October 28, 2005 Order of the Wayne County Circuit Court

February 10, 2005 Order of the 28th District Court

February 2, 2005 Order of the 28th District Court denying motion to dismiss for lack of police jurisdiction and for lack of probable cause

Order of the 28th District Court denying motion to dismiss

Statement Of The Case

This case concerns Samuel Shortridge who, when he was walking in the parking lot of his condominium in Taylor, Michigan, was arrested by the Southgate, Michigan police based on a false police report that the Southgate Police had supposedly received.

Mr. Shortridge was charged with driving under the influence of intoxicating liquor and failure to take a portable breathalyzer.

Mr. Shortridge was prosecuted under the City of Southgate ordinance by the City of Southgate's attorneys.

A motion was brought to dismiss the charges, which was denied. The City of Southgate then voluntarily dismissed the charges. Mr. Shortridge was then charged with driving under the influence of intoxicating liquor second offense by the Wayne County prosecutor under State statutes. A motion was brought before the district court judge to dismiss the charges which were denied. The second case was then dismissed on the day of the jury trial after the district court trial judge refused to grant the prosecutor's motion to have the case adjourned because she was not prepared for trial.

Mr. Shortridge was then charged for a third time, with the prosecutor's office issuing a warrant approximately three weeks later.

Another motion for dismissal was filed and the district court once again refused to dismiss, and the Wayne County Circuit Court refused to grant leave for an interlocutory appeal.

After the trial court made adverse rulings on the defendant's motions in limine, the defendant plead guilty to driving under the influence first offense in return for the dismissal of driving under the influence second offense with the condition that he would be allowed to appeal the legal issues that had been raised before the court. Both the circuit court and the Court of Appeals refused to grant leave to appeal.

The Supreme Court of Michigan also refused to grant leave to appeal.

On May 30, 2004, Samuel Kaye Shortridge had parked in the parking lot of the Act 1 Condominiums which is the parking lot of his residence is 14059 Jackson, Taylor, Michigan 48180. His car was parked approximately 100 feet from his condominium unit. It should be emphasized that the Act I complex is entirely within the City of Taylor.

When Mr. Shortridge was exiting his car, he was approached by Officer Davis of the Southgate Police who accused Mr. Shortridge of having hit a car. Officer Davis' exact words were, "Mr. Shortridge, did you know you hit a car?" Mr.

Shortridge denied hitting a car which he had not done.

Mr. Shortridge was asked by Officer Davis to take a number of sobriety tests which resulted in him being arrested and charged with driving under the influence of intoxicating liquor (second offense), and with refusing to take a portable Breathalyzer test.

Mr. Shortridge filed a motion to dismiss the charges under Case No. 04-0725CDA OD which was heard on July 12, 2004. Among the different reasons for moving for a dismissal (which included the fact that the police officers did not have authority to act in Taylor and that they never had probable cause to stop Mr. Shortridge in the first place) was that it was illegal to charge Mr. Shortridge with violating the ordinances of the City of Southgate in the city of Taylor.

There were two statutes that came into play on this issue.

> (2) In a district of the second class, venue in criminal actions for violation of state law and all city, villages, or township ordinances shall be in the district where the violation took place.
>
> (3) With regard to state criminal violations cognizable by the district court, the following special provisions shall apply:

> (a) If an offense is committed on the boundary of 2 or more counties, districts, or political subdivisions, or within 1 mile thereof, venue is proper in any of the counties, districts, or political subdivisions concerned. MCL 600.831(2)

6. The authority of a peace officer under MCL 257.726(a) states:

> A peace officer in any county, city, village or township of this state may exercise authority and powers outside his own county, city, village or township when he is enforcing this act on a street or highway which is on the boundary of the county, city, village or township the same as if he were in his own country, city, village or township.

The motion for dismissal for lack of probable cause was based on the fact that Officers Davis and Cassette claim they stopped Mr. Shortridge based on a dispatch they received from a Southgate police officer who claimed he had been flagged over by someone who claimed that a 1997 Silver Lincoln Continental struck his car. The mysterious Southgate police officer (who never identified himself) stated he was on his way home and that he would leave the complainant at the parking lot of the 7-Eleven. A Southgate police officer was sent to the 7-Eleven but there was no one there. The alleged Southgate police officer who made the call has never been identified. It was of course an untrue call since Mr. Shortridge had not had a car accident; consequently, the stop was

not valid since it was based on misinformation. Moreover, Officer Davis, knows Mr. Shortridge, since he was the officer who arrested Mr. Shortridge the first time for drunk driving several years ago. Moreover, Mr. Shortridge, who at one time owned a rather huge beauty salon in Southgate, is a well-known individual in a relatively small community.

At the July 12, 2004 evidentiary hearing, the officers claimed that after hearing the dispatch, which included a license plate number, that they looked up the license plate number via the computer in their car, saw that the car belonged to Mr. Shortridge, and thus proceeded to his home in Taylor. One of the officers at the evidentiary hearing on July 12, 2004, claimed he saw the Lincoln driving on southbound Allen Road (which would be in the city of Taylor). The other officer did not see Mr. Shortridge's vehicle until it was on Jackson (which is totally within Taylor) and it is not a boundary road between Southgate and Taylor, (Pages 20 and 27 of July 12, 2004 Transcript, attached hereto as Appendix B and C).

Incredibly enough the trial judge, Judge Kandrevas, denied the motion to dismiss, (Pg. 35 of July 12, 2004 Transcript, attached hereto as Appendix D). Particularly noteworthy in the evidentiary hearing that took place was Officer Davis' insistence that Mr. Shortridge had been charged under State statutes despite the fact that the matter was being argued against Mr. Shortridge by the City

of Southgate's City attorney, (Pg. 12 of July 12, 2004 Transcript, attached hereto as Appendix A). Despite the fact that Judge Kandrevas refused to dismiss the charges, the City attorneys for Southgate voluntarily dismissed the Ordinance charges of the City of Southgate on August 9, 2004; at the same time Mr. Shortridge was arraigned on a warrant by the Wayne County Prosecutor's Office.

Once again, a motion was brought to have the charges dismissed this time under Case No. 04-1091SD. Once again, Judge Kandrevas denied the motion for dismissal at the oral argument held on October 1, 2004.

On October 29, 2004, Mr. Shortridge and Mr. Hill appeared in the 28th District Court for Mr. Shortridge's jury trial. At that time, the Assistant Wayne County Prosecutor in charge of the case, Rebecca Tenorio, moved to have the jury trial adjourned because she was not prepared and was afraid she would lose if the matter went to trial which Judge Kandrevas refused to consent to. Ms. Tenorio then chose to dismiss the case against Mr. Shortridge, which the judge reluctantly agreed to. Mr. Hill was not asked if he consented to the dismissal; nor was it stated whether the dismissal was with or without prejudice. Mr. Shortridge's bond was refunded, and the case was dismissed, (Pages 4, 5, 6 & 7 of the October 29, 2004 Transcript, attached hereto as Appendix E).

Around December 6, 2004, Mr. Shortridge received a notice from the 28th District Court that he was being arraigned for driving under the influence of intoxicating liquor second offense on Monday, December 13, 2004.

At the arraignment on December 13, 2004, the court informed Mr. Shortridge and Mr. Hill that a new warrant had been issued by the Wayne County Prosecutor on November 19, 2004 against Mr. Shortridge.

Mr. Shortridge then filed a motion to have the charge dismissed on the grounds that he had been denied his right to a speedy trial.

That the case law cited in Mr. Hill's January 7, 2005 brief clearly indicates that a case cannot be delayed for frivolous reasons. In this instance, the only reason that the Assistant Wayne County Prosecutor gave for dismissing the case was that she was unprepared and that she was afraid Mr. Shortridge would be acquitted if the matter went to trial, (Pages 6 & 7 of October 29, 2004 Transcript, attached hereto as Appendix E).

Incredibly enough, Judge Kandrevas denied the motion to dismiss claiming that no prejudice had attached wherein he was confusing the concepts of jeopardy and prejudice, (Pg. 5 of January 14, 2005 Transcript, attached hereto as Appendix F).

Judge Kandrevas immediately then stated he would schedule the matter for a jury trial on either January 21st or January 28th 2005, asking Mr. Hill which date he preferred. Mr. Hill attempted to point out to the court that he would like to respond wherein Judge Kandrevas cut him off, (Pg. 10 of January 14, 2004 Transcript, attached hereto as Appendix G).

The Court: Which--which case--which date do you want?

Mr. Hill: The 28th, however --

The Court: All right. January 28 at 8:30.

Mr. Hill: --I plan to file another motion regarding the other issues—

The Court: You may do that. You can also file your appeal until I get a stay, this case is being tried on January 28th at 8:30 a.m. Bond is continued.

In regard to the other issues that had twice been argued before the Court under different case numbers, the defendant brought the motion once again under the new case number of January 28, 2005, and it was once again pro forma denied, (Pg. 3 of January 28, 2005 Transcript, attached hereto as Appendix H).

In limine motions were then heard regarding the case which was scheduled to have a jury trial that same day.

Mr. Hill pointed out that one of the in limine motions was that they wanted the prosecutor and the Southgate police to be barred from saying why Mr. Shortridge had been stopped due to the fact that it was based on hearsay and defendant, through his counsel, would not have the opportunity to cross-examine the source of the information.

The second motion was to prevent the prosecutor and the prosecution witnesses from referring to Mr. Shortridge's prior impaired drinking conviction. The Court granted that motion, and the assistant prosecuting attorney, Mr. Smith, said he was not going to mention it due to the fact that it was more prejudicial than probative, (Pages 5 & 6 of January 28, 2005 Transcript, attached hereto as Appendix I).

The final issue was to bar admissions by Mr. Shortridge due to the fact that he had been denied his Miranda Rights. Without specifically denying it, it would appear that the Court did deny the motion due to the fact that the Court did not see anything particularly incriminating by what the defendant said, The Court stated, "He's not saying, "yeah, I got bombed at the—at the Bomba Shack" or whatever and I had you know, I shouldn't be driving or anything of that nature that would be incriminating if that were the type of answers he gave to the officer without being given Miranda warnings, then I would exclude them. So I'll deny that, (Pg. 8 January 28, 2005 Transcript, attached hereto as Appendix J).

In regard to the first issue, which was to exclude as evidence the reason why Mr. Shortridge had been stopped, the Court indicated he had given some thought about the case.

The Court indicated that the jury would be told that the police were on a BOL (be on the lookout for) because the car had allegedly been involved in an incident, but that the contents of the conversation would be excluded and could not be referred to.

Attorney Hill believes that the Court actually said "accident," but the court reporter has written it down as "incident."

Given the devastating nature of the judge's rulings regarding the motions in limine, the defendant felt he had no practical choice but to accept the prosecutor's plea bargain offer — which was to allow him to plead to "Drunk Driving 1" with "Drunk Driving 2" being dismissed, with an agreement that penalties would not be enhanced beyond what would ordinarily be available for "Drunk Driving I," and that defendant would retain the right to appeal the Court's refusal to grant defendant's motion, (Pg. 10 of January 28, 2005 Transcript, attached hereto as Appendix K). The plea bargain was put on the record and pursuant to the plea Mr. Shortridge plead guilty on January 28, 2005. He was sentenced on February 10, 2005, and a timely appeal was filed with the Wayne County Circuit Court.

Oral Argument was held in front of The Honorable Craig S. Strong on Friday, June 24, 2005.

In her brief filed before the circuit court, Assistant Wayne County Prosecutor Julie A. Powell admitted that the Southgate Police officers were acting outside their jurisdiction, were not acting in conjunction with local police, and were not in hot pursuit of Mr. Shortridge.

On October 28, 2005, Judge Strong issued an order stating, "On order of the Court, the application for leave to appeal the February 10, 2005 judgment of the 28th District Court is considered and it is DENIED, because this Court is not persuaded that the questions presented should be reviewed by this Court."

A timely application for leave to appeal was filed with the Michigan Court of Appeals.

On January 5, 2006, the Court of Appeals denied the Application For Leave To Appeal for lack of merit on the grounds presented.

In her brief in response to the motion for leave to appeal to the Court of Appeals, Ms. Powell agreed with appellant's statement of facts.

A timely appeal requesting leave to appeal was filed with the Michigan Supreme Court.

The Michigan Supreme Court denied the petition for leave to appeal on May 30, 2006.

Argument

Question I.

The essential ruling *of People of the State of Michigan v Donald Andrew Hamilton*, 465 Mich 526 (2002) is that a statutorily valid arrest does not necessarily mean that the charges should be dismissed if the arrest is constitutionally valid which requires that there be probable cause for the officer to make, in effect a citizen's arrest.

The fact the Wayne County Prosecutor is trying to justify the arrest on this ground is particularly pernicious since the Southgate police officers, who had no statutory authority to go into the city of Taylor, used their authority as police officers to conduct an investigation in Taylor which they then used as part of the probable cause for an allegedly constitutionally valid citizen's arrest.

It should be pointed out that the officers did not tell Mr. Shortridge that this was a citizen's arrest. There is no evidence that the officers themselves believed that at the time of the arrest. This is only something that the Wayne County Prosecutors concocted after the fact in an effort to justify the arrest and to have admitted evidence obtained in the arrest.

An important distinction between the facts in the *Hamilton* case, and the facts in the *Shortridge* case, thus, must be pointed out. There was nothing wrong with Mr. Shortridge's driving. There was nothing apparent to the officers when they saw someone driving Mr. Shortridge's car in the city of Taylor that anything was amiss. This is a far cry from the situation in *Hamilton* where the officer in question thought that Mr. Hamilton's driving was improper. The only reason that Mr. Shortridge was stopped was because the Southgate officers were responding to a dispatch which was based on an anonymous call. Far from acting like private citizens, the officers in question were acting like Southgate police officers. The information obtained once Mr. Shortridge was stopped of course has nothing to do with whether or not the initial stopping of him when he was walking in the parking lot of his condominium was valid. Private citizens may have the right to arrest someone if they have probable cause, but they do not have a right to detain an individual under color of false authority in order to obtain information which then may constitute probable cause. Indeed, if the charges against Mr. Shortridge are allowed to stand, it is hard to imagine how there could possibly ever be an invalid arrest in Michigan.

The officers who arrested Mr. Shortridge were proceeding on information they received from Dispatch and from the State of Michigan in their in-car computer. They then decided to go to Mr. Shortridge's

home based on their investigation work. They were not in the "Hot Pursuit" of someone committing a crime or a fleeing suspect. Regardless of whether or not the officers saw Mr. Shortridge on Allen Road or Superior street they were going to his home before they ever saw his car. They were without legal authority to do so since Mr. Shortridge's home is not on the boundary between Southgate and Taylor and they were not in hot pursuit.

As pointed out earlier in this brief, the rules regarding district court venue which allows someone to be charged with a State crime in Southgate, as long as it was committed within one mile of Southgate, does not apply to the authority of police officers. Since the officers were acting without authority, and arrested Mr. Shortridge, the charges against him must be dismissed.

In regard to the stop and arrest of Mr. Shortridge, there was no probable cause (or reasonable cause for that matter) since the information supplied to the Southgate police is suspect. The person who claimed to be a Southgate police officer was not, since if he were, he would have identified himself; he would have gotten the name of the alleged victim of the car accident who claimed Mr. Shortridge was driving while drunk and would have waited with the victim.

It is inconceivable that someone who had been in an accident would not have stuck around to make a police report; and, that if an officer failed to show up at the scene, the victim would have gone one mile to the police department to make a report. Moreover, it is

inconceivable that a police officer would not get the victim's name and give it to the dispatcher, or that he would have left the victim before another police officer arrived.

The phrase, "probable cause," is one of the most beloved terms in Michigan criminal jurisprudence.

The phrase, "probable cause," is used to determine a justification for the police to stop a person. It is used to determine whether an arrest was justified or valid; it can be used to determine whether or not a district judge should bind over a person accused of a felony; and it can be used to determine whether or not a person's probation or parole status should be revoked.

Tope v Howe, 179 Mich App 91; 445 NW2d 452 (1989) defines probable cause as follows:

> Probable cause to arrest without a warrant exists when the facts and circumstances within the officer's knowledge at the time of the arrest are sufficient to a prudent person, or one of reasonable caution, to believe that the suspect has committed or is committing a crime. Mere suspicion is insufficient. The facts must create an actual belief in the mind of the arresting officer." *People v Oliver*, 417 Mich 366, 374; 338 NW2d 167 (1983), reh den 418 Mich 1201 (1984); *People v O'Neal*, 167 Mich App 274, 280-281; 421 NW2d 662 (1988): 179 Mich App 91, 102.

In regard to drinking and driving offenses, Michigan statutory law states as follows:

MCL 257.625(a) Arrest without warrant; circumstances; preliminary chemical breath analysis; operator ordered out-of-service: refusal of commercial motor vehicle operator to submit to breath analysis as misdemeanor; provisions applicable to chemical tests and analysis: evidence; availability of test, results; presumptions; admissibility refusal to submit to chemical test. [MSA §9.2325 (1)] Sec. 625a. (1) A peace officer may arrest a person without a warrant under either of the following circumstances:
(a) The peace officer has reasonable cause to believe the person was, at the time of an accident in this state, the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 625 or a local ordinance substantially corresponding to section 625.
(b) The, person is found in the driver's seat of a vehicle parked or stopped on a highway or street within this state if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation, of section 625 or a local ordinance substantially corresponding to section 625.

Mapp v Ohio, 367 U.S. 643; 81 S. Ct. 1684, 6; L Ed.2d 1081 (1961), is the landmark case regarding the exclusionary rule. In effect, evidence that is illegally obtained must be excluded pursuant to the Fourth and Fourteenth Amendments to the United States Constitution.

Mapp was important because it stated that the Fourth and Fourteenth Amendments were no longer simply going to be hollow

guidelines that could be flaunted by the police deliberately choosing to break the law. Justice Clark writing for the majority stated:

> The ignoble shortcut to conviction left open to the State tends to destroy the entire system of constitutional restraints on which the liberties of the people rest. Having once recognized that the right to privacy embodied in the Fourth Amendment is enforceable against the States, and that the right to be secure against rude invasions of privacy by state officers is, therefore, constitutional in origin, we can no longer permit that right to remain an empty promise. Because it is enforceable in the same manner and to like effect as other basic rights secured by the Due Process Clause, we can no longer permit it to be revocable at the whim of any police officer who, in the name of law enforcement itself, chooses to suspend its enjoyment. Our decision, founded on reason and truth, gives to the individual no more than that which the Constitution guarantees him, to the police officer no less than that to which honest law enforcement is entitled, and, to the courts, that judicial integrity so necessary in the true administration of justice. 367 U.S. 643 (1961)

Question II.

Officer Cassette claimed at the evidentiary hearing held on August 12, 2004 that Mr. Shortridge's car was proceeding south on southbound Allen road in the city of Taylor when he was proceeding in the same direction having turned from Northline road, (Pg. 21 of August 12, 2004 Transcript, attached hereto as Appendix L).

Officer Davis, who was sequestered while Officer Cassette testified, testified they were on Prechter Drive and had turned onto Allen road. He, himself, never saw Mr. Shortridge driving on southbound Allen road, but rather saw him on Jackson street, which is entirely in Taylor and is not a boundary road, (Pages 16, 17, 21 of August 12, 2004 Transcript, attached hereto as Appendix L).

MCL 257.726(a) states:

> A peace officer in any county, city, village or township of this state may exercise authority and powers outside his own county, city, village or township when he is enforcing this act on a street or highway which is on the boundary of the county, city, village or township the same as if he were in his own county, city, village or township.

The boundary road between Southgate and Taylor is Allen Road. Jackson street (which is where Mr. Shortridge lives) is not on the boundary. Where the court may have been confused regarding this law is because MCL 600.8312(4) provides:

> With regard to state criminal violations cognizable by the district court, the following special provisions shall apply:
> (a) If an offense is committed on the boundary of 2 or more counties, districts, or political subdivisions, or within 1 mile thereof, venue is proper in any of the counties, districts, or political subdivisions concerned.

Strangely enough, it would appear that if someone committed a State crime within a mile of the Southgate they could be charged in Southgate's court; however, this does not mean that Southgate police officers, (who are governed by a different statute altogether) have authority to go into Taylor to enforce State law. In effect, under MCLA 257.762, an officer would not have authority to go beyond the boundary road of the city where he is a peace officer. Consequently, since the officers were acting without authority, the illegal behavior of Officers Davis and Cassette constituted an illegal arrest of Mr. Shortridge; therefore, all evidence obtained as a result of their illegal conduct must be thrown out. At the same time, the arrest, and warrant, and charges should be dismissed since the officers had no authority to arrest Mr. Shortridge in Taylor under the circumstances with which he was ultimately apprehended.

The second reason that the charges should be dismissed are due to the fact that the information given to the Southgate police was bogus. According to the police, at approximately 9:45 a.m. on May 30th an individual called Southgate Dispatch without identifying himself other than saying he was a Southgate police officer and was in uniform. The unidentified officer stated that someone had flagged him down saying he had been hit by a drunk driver but that no real damage was done to the car. The car was described as a silver Mark VIIL license plate number of DEE562, with tinted windows, (Southgate Police Department's taped transcription, attached as Appendix N).

The tape is clearly suspect for a number of reasons. First of all, it is incredible that a Southgate police officer would not identify himself when calling Dispatch particularly when the Southgate police force is such a small organization where everybody knows everyone. It is inconceivable that a Southgate police officer would call Dispatch and not identify himself.

Another extremely unusual thing is that the unidentified police officer never told the dispatcher the name of the person who claimed he had been hit. It is rather bizarre and extreme that the officer left the so-called victim at the 7-Eleven store to go home rather than to wait for another officer to come and make a report.

Another extremely weird thing is that the unidentified officer, who called Southgate Dispatch, did not know the crossroads where the 7-Eleven was located. If the unidentified officer was truly at the 7-Eleven store, he could have simply looked at street signs to see what the crossroads were. Southgate is such a small community that every police officer should know where every liquor store is located. The reason of course that the unidentified officer did not know what the cross street was because he was not there. That being the case, it is bizarre that the unidentified officer did not tell the dispatcher where the so-called victim was so that the officer who would make the report would know where to go. An officer went to the 7-Eleven store, but did act find anyone.

In effect logic clearly dictates that this was a bogus, non-legitimate call to Southgate Dispatch; that it was made by some evil, misguided individual who wanted to get Mr. Shortridge in trouble, or who wanted to have probable cause to get him arrested. Regardless, this was not a legitimate call by the so-called victim since Mr. Shortridge was not in a car accident.

Further, it is inconceivable, that anyone who had been in a car accident would not wait for a police officer to make a police report, or go the short distance to the Southgate Police Station to make a report if the officer did not show up. (Nothing in Southgate is very far from anything else in Southgate.

In this particular instance, the Southgate Police Department is one mile from the party store where the alleged accident supposedly occurred.).

The information regarding Mr. Shortridge's so-called accident is sketchy since it never took place in the first place. Given the fact that the Southgate police were relying on bogus information, they did not have a valid reason to stop Mr. Shortridge and the fruit of the illegal branch of the tree must be excluded.

As stated earlier in her brief filed before the circuit court, Assistant Wayne County Prosecutor Julie Powell admitted that the Southgate police officers were acting outside their jurisdiction, were not acting in conjunction with the local police, and "were not in hot pursuit of Mr. Shortridge.

The current controlling Michigan case on the validity of an arrest when officers are acting beyond their jurisdiction is *People of the State of Michigan v.Donald Andrew Hamilton*, 465 Mich 526 (2002).

That case, just like the Samuel Kaye Shortridge case, involved a fact scenario where both prosecutors ultimately admitted that both officers were operating outside their jurisdiction and were not doing so in conjunction with the local authorities nor were they in hot pursuit of the defendant. Consequently, this was a statutorily invalid arrest in both cases. However, the *Hamilton* court went on to state that the police officer in question had no greater authority than a private person, which meant that he could make a valid misdemeanor arrest if probable cause to arrest existed at the moment the arrest was made by the officer, (Michigan Supreme Court Opinion, attached as Appendix O).

The *Hamilton* court went on to rule that there was probable cause to arrest the defendant and, therefore, his arrest did not violate the Fourth Amendment; thus, the exclusionary rule did not apply, and a dismissal of the case was reversed.

§ 600.8312. Venue. [MSA § 27A.8312), reads as follows:

> Sec. 8312.
>
> (1) In a district of the first class, venue in criminal actions for violations of state law and all city, village, or township ordinances shall be in the county where the violation took place.
> (2) In a district of the second class, venue in criminal actions for violation of state law and all city, villages, or township ordinances shall be in the district where the violation took place.
> (3) In a district of the third class, venue in criminal actions of state law and all city, village, or township ordinances shall be in the political subdivision where the violation, took place, except that when the violation is alleged to have taken place within a political subdivision where the court is not required to sit, the action may be tried in any political subdivision within the district where the court is required to sit.
> (4) With regard to state criminal violations cognizable by the district court, the following special provisions shall apply:
> (a) If an offense is committed on the boundary of 2 or more counties, districts, or political subdivisions, or within 1 mile thereof, venue is proper in any of the counties, districts, or political subdivisions concerned.

(b) If an offense is committed in or upon any railroad train, automobile, aircraft, vessel, or other conveyance in transit, and it cannot readily be determined in which county, district or political subdivision the offense was committed, venue is proper in any county, district, or political subdivision through or over which the conveyance passed in the course of its journey.

(5) Venue in civil actions, other than civil infraction actions, shall be governed by sections 1601 and 1659 except that for purposes of this subsection all references to "county" in sections 1601 and 1659 shall mean "district" with respect to districts of the second and third class.

(6) Venue in civil infraction actions shall be determined as follows:

(a) In a district of the first class, venue shall be in the county where the civil infraction occurred.

(b) In a district of the second class, venue shall be in the district where the civil infraction occurred.

(c) In a district of the third class, venue shall be in the political subdivision where the civil infraction occurred, except that when the violation is alleged to have taken place within a political subdivision where the court is not required to sit, the action may be heard or an admission entered in any political subdivision within the district where the court is required to sit.

MCL 257.726(a) states:

A peace officer in any county, city, village or township of his state may exercise authority and powers outside his own county, city, village or township when he is enforcing this act on a street or highway which is on the boundary of the county, city, village or township

the same as if he were in his own county, city, village or township.

Question III.

It should be pointed out that in *People v Hill* the Supreme Court of Michigan quoted *People v Casey*, 411 Mich 179; 305 NW2d (1981) with approval. *People v Casey* holds that at least in the state of Michigan the law does not allow an arrest for investigation purposes.

Under *Hill* it is not necessary that a person be under arrest to be entitled to his Miranda, warnings, but rather the court has to determine if an individual not in custody has been deprived of his freedom in any significant way. 429 Mich 399. In the instant matter, not only was Mr. Shortridge not read his Miranda rights before his arrest, he was not read his Miranda rights after his arrest.

People v Hill, 429 Mich 382, provides that Miranda rights kick in, in custodial situations as opposed to the focus test. 429 Mich. 399.

Judge Kandrevas' ruling that he would have kept the statements of Mr. Shortridge out if they had been important misses the whole point of the Miranda warnings. When a person is not given his warning and says something, the information must be excluded.

It is not for the Court to decide whether the information is important or not. If it is not important, then it does not need to be presented to the jury anyway. In effect, it is irrelevant because it does not make a matter in controversy more or less so, (Pg. 9 of January 28, 2005 Transcript, attached hereto as Appendix M).

Once again, this ruling by Judge Kandrevas was extremely unfair.

Question IV.

The Michigan Court Rules, The Michigan Constitution, Article 1, section 20, and the United States Constitution Fifth, Sixth and Fourteenth Amendments guarantees a defendant a speedy trial. *People v Den Uyl* (1948), 320 Mich 477, 31 NW2d 699 and *Barker v Wingo*, 407 US 514, 92 SCt 2182; 33 LEd 101 (1972).

Not only was it grossly violative of Mr. Shortridge's right to a speedy trial to allow the prosecution to dismiss the case on October 28th and then to refile it on November 19th but it was so unfair that it was a violation of Mr. Shortridge's due process and equal protection rights under the Fourteenth Amendment of The United States Constitution.

When the prosecution charges somebody with a crime in court, the parties are supposed to be on a level playing field. If the prosecutor is allowed to dismiss the case on a whim because she does not feel like trying it, or is afraid she will lose, or because she is unprepared, it is unfair for her to be able to dismiss the charges and then to refile them when she is ready to proceed. In effect, allowing this sort of conduct would give the prosecution a gross advantage that is simply so unfair as to be unconstitutional.

The prosecutor would have this court believe that there was no prejudice to Mr. Shortridge in his case being dismissed. There certainly was prejudice in that having appeared for trial, and ready for trial, Mr. Shortridge was denied his right to go forward with a speedy trial because the prosecutor chose to dismiss the complaint and then turned around and filed charges again some twenty-two days later when it is convenient for the Wayne County Prosecutor's Office. At the very least, Mr. Shortridge was prejudiced by the fact that he had to miss work and thus miss out on his earnings as a hairdresser and at the same time then had to pay his attorney to a appear in court once again on numerous occasions not to mention all the money he paid to his attorney for firing motions, et cetera. Certainly, this was prejudicial to Mr. Shortridge, not to mention the emotional trauma involved in being charged with a crime, particularly after he thought it has been dismissed. Allowing this sort of conduct would give the prosecution an overwhelming

advantage that is simply so unfair as to be unconstitutional.

The unfairness of the case being dismissed and then being refiled is indicative of how this case has proceeded all the way through. Every issue has been resolved by the "trial court in favor of the prosecutor even though virtually any one of them demanded dismissal of the case.

The police cannot pull people over on bogus information. They cannot go to their homes in another city. The Court cannot allow in damaging, false information to be told to the jury simply because if it was not allowed in the prosecution would not have a case, then to turn around and deny the defendant the right to explain the bogus information. It is unbelievably unfair that the prosecutor would be allowed to dismiss and then recharge.

In the case of Mr. Shortridge, the matter was not dismissed merely once, but was actually dismissed twice before the third charge was filed.

Question V.

Judge Kandrevas' ruling that the jury would be told that the officers received a BOL (be on the lookout) notice that this type of vehicle had allegedly been involved in an incident, but that the content of the conversation would not be permissible, was the worst of both worlds for Mr. Shortridge. Judge Kandrevas was admitting into evidence a bogus call, but not allowing Mr. Shortridge to demonstrate that it was bogus.

The jury would be in effect told that Mr. Shortridge had been involved in an incident, which was not true, based on quadruple hearsay. The person who allegedly flagged down a policeman would be the first source of the information. The policeman who allegedly called the dispatcher would be the second source. The dispatcher, himself, would be the third source. And Officers Davis and Cassette would be the fourth source.

At the same time, Mr. Shortridge was being denied the right to introduce the actual hearsay statement which had so many ridiculous flaws in it that it would have clearly had at best a questionable value if believed at all by the jury particularly had the full context been allowed in.

Certainly, Judge Kandrevas recognized that there would have been no reason to have stopped Mr. Shortridge but for the bogus telephone call which is what Mr. Hill had been telling him for months. The judge's solution to the problem was to tarnish Mr. Shortridge with, the allegation of an incident which never happened. (Pg. 9 January 28, 2005 Transcript, attached as Appendix N).

Given the prejudicial initial attitude of jurors toward people accused of drunk driving, there would have been a great tendency for a jury to believe that Mr. Shortridge had been in an incident which had never taken place.

The ruling of Judge Kandrevas is far more prejudicial than probative, and is clearly a ruling designed to save the prosecution's case. His ruling is very much a case breaker one way or the other.

Had the information not been allowed in, the jury would never have understood why Mr. Shortridge was allegedly stopped. On the other hand, the information which was false is practically being presented as being true by the prosecution which makes it far worse than if all the facts were coming out so Mr. Shortridge could at least explain why the call was a lie.

Conclusion

Clearly, a pattern emerges where Mr. Shortridge has been consistently, unfairly treated by the Southgate police and the Southgate District Court.

The Courts are supposed to be neutral and not root for either side.

Unfortunately, it would appear that District Judge Kandrevas has bent over backwards to consistently rule against Mr. Shortridge.

The Circuit Court, the Court of Appeals, and the Michigan Supreme Court, by refusing to grant leave to appeal, are denying Mr. Shortridge an appellate review of his case.

The issues in this case are so important, and the treatment of Mr. Shortridge is so irrational and so outrageously unfair, that it is crucial that the United States Supreme Court grant defendant's Petition For Writ Of Certiorari.

The concept that the police can act outside of their jurisdiction without statutory authority, but claim that their actions are constitutionally valid because they claim to have probable cause which was obtained by an investigation conducted under color of authority as police officers when outside their jurisdiction which allowed them to make a citizen's arrest is particularly pernicious.

If the conduct of the Southgate police and the Wayne County Prosecutor is allowed to stand then the government can do whatever it wants at any time and simply ignore the law.

WHEREUPON, your Petitioner prays that this Honorable Court grant the Petition for Writ of Certiorari.

Respectfully submitted,

J. Michael Hill And Associates, P.C.

By _____

J. Michael Hill P29769
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Appendixes

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Appendix A

Taken from Transcript dated 7/12/04 – Page 12

A No. We saw him pulling into the lot.

Q So his driving was fine?

A I wouldn't say fine. We didn't have enough time to observe his driving.

Q You didn't see anything bad?

A No.

Q Okay. Now in the city of Taylor, did one of the officers ask Officer Shortridge (sic) to take a breathalyzer—a portable breathalyzer test?

A Yes. I did.

Q Okay. And did—what did he do?

A He said "no."

Q Okay. And so you issued a ticket for failing to take a portable breathalyzer test?

A Yes.

Q Now in the People's response, Mr. Timmony, who wrote this report, or wrote this answer, said that it was Officer Davis that asked him to take the portable breathalyzer test; was that a mistake on the part of Mr. Timmony?

A I don't know. I—

Q Well, you just said that you asked him to take it, right?

A Yes.

Q So when he says that Officer Davis was the officer that asked him to take it, that's incorrect, correct?

A If that's what it's saying. I don't know what it says.

Appendix B

Taken from Transcript dated 7/12/04 - Page 20

A I didn't write the report.

Q All right. So you had a plate number?

A Yes, we had a plate number.

Q Okay. And did you know—did you know the name of the owner of the plate? At that point?

A You need to be more specific. Did I have—

Q Okay. Based on the plate number that you were given, did you know that was Samuel Shortridge's car?

A Yes.

Q Before you saw the car?

A Did I know it was registered—I know it was registered to a Samuel Shortridge.

Q How did you know this?

A Because we ran the plate in the car. In our in-car computer.

Q Oh, you ran that in the car?

A We ran the plate on the in-car computer.

Q Okay.

THE COURT: It also has the address of the person?

THE WITNESS: If their Ops code is or their driver's license number is attached to their registration it will show us where they live. It will give us an address.

Appendix C

Taken from Transcript dated 7/12/04 - Page 27

Q Do you recall approximately how long it took at that time?

A About 30 seconds, maybe.

Q Where—where were you and Officer Cassette when the dispatch called stating that it was a hit and run?

A I know we were at Northline, but I can't remember where we were at on Northline.

Q And in which direction after the call did you—

A We were west.

Q What—were you east of west of Allen Road?

A We were east of Allen Road.

Q And where did you go from Northline?

A Like I said, to the best of my recollection, I believe we took Northline to Prechter and then went up Prechter.

Q And then Prechter to Allen Road?

A And then Prechter to Allen Road.

Q And then you made a left on Allen Road, correct?

A And then left on Allen Road.

Q And when did you first see the Lincoln Mark VIII?

A I first saw it when it was up in the driveway when making the loop into ACT 1 parking lot.

Q Could you describe that? When you say up in the driveway, could you please describe—

A On Allen Road—

THE COURT: I understand what that means. Do you

Appendix D

Taken from Transcript dated 7/12/04 – Page 35

citation—

THE COURT: Which they did.

MR. HILL: They can't give a local.

THE COURT: Which they did. Which they did, but someone in the court—clerk probably, made a mistake and put in a blue file as opposed to a white file and scheduled it for hearing probably because it wasn't a state trooper. It was a regular police officer and didn't look any closer to the citation.

MR. HILL: So—

THE COURT: Okay. So, I find that this is a state case; that based upon the testimony of the officers, they did have probable cause to make their stop and deny your motion and I'll schedule it for pre-trial on a Friday when the county prosecutor is here. Which Friday would you like—

MR. HILL: So I'm taking it that our July 20th trial date is then cancelled?

THE COURT: That is cancelled, yes.

MR. HILL: Yes.

THE COURT: Unless the county prosecutor wants to come down here and they don't usually like to come here other than Friday dates.

MR. HILL: Okay. Will that be—should I get it from the clerk?

Appendix E

Taken from Transcript dated 10/29/04 – Pages 4-7

but the clerk erroneously put it in the blue file, which is a city file and consequently, it is now in a white file and the city attorney was taking care of it and now it is in your capable hands.

MS. TENORIO: Okay. So, Defense counsel informed me that there has been numerous motions and I believe another Prosecutor, Mark Bernardi, has been here—

THE COURT: Yes.

MS. TENORIO: --handling those motions, which I did not get.

THE COURT: Okay.

MS. TENORIO: They were not in our file in the office. We, Defense counsel and myself, have agreed that we would ask the Court to adjourn the case for a couple weeks—

THE COURT: Your motion is denied.

MS. TENORIO: --which, I found out late yesterday, when I was in Wyandotte court—

THE COURT: I have a jury coming in in a half an hour to try this case.

MS. TENORIO: Right. I don't have a file on the case or any of those motions. I think Mark Bernardi—

THE COURT: You can read whatever is in the court file.

MS. TENORIO: Your Honor, I just don't feel I'm prepared and then Defense counsel had another motion that it's filing with the Court this morning that it just served onto me.

THE COURT: Well, well, that's why I suggested we wait another 15 or 20 minutes so you can read the motion and be able to respond to it. I have read the motion; I am familiar with the facts and ready to rule on the motion and proceed with the trial.

MS. TENORIO: I'm not familiar with the facts and the first—this is the first—

THE COURT: Well, the officers are here. You have ample opportunity to speak to them this morning—

MS. TENORIO: But I believe there is a 911 dispatch tape—not a 911 tape—

THE COURT: There is no tape.

MR. HILL: Oh, there is a tape.

THE COURT: Oh, there is a tape?

MR. HILL: Yeah. I have it.

THE COURT: Oh, you have it? Well, you can listen to the tape, too.

MS. TENORIO: Your Honor, I'm asking the Court to—if we can get an adjournment on this case. Defense counsel has

agreed. We would like to do further—

THE COURT: What purpose would that serve? I mean, I've got I don't know how many hours of—you know, and I've got people coming in. I'm going to have to pay them for being here today as juror—

MS. TENORIO: Right.

THE COURT: --and—

MS. TENORIO: Which is why I asked the Court two (2) days ago if we could adjourn it so we would keep the jurors from having to come in.

THE COURT: Well, I got the stip and order yesterday around 3:00 and I definitely, you know, will not adjourn a jury trial the day before the jury.

MS. TENORIO: Well, I called the court on Wednesday and that's why I faxed it over.

THE COURT: I'm sorry, I'm not going to adjourn the case. The case will be tried this morning. Here's the file; you can go through it. The jurors
will be coming at 10:00. They will be indoctrinated through the state's videos and at 10:30, we will start the trial.

MS. TENORIO: Your Honor, then the People would move to dismiss the case. We are not prepared to go forward.

THE COURT: Dismiss the case? The officers are here.

MS. TENORIO: Yes, they are.

THE COURT: Why, why would you dismiss the case?

MS. TENORIO: Because I believe there is a lot more information to this case and I'm not prepared to go forward and I don't want it to turn out to be an acquittal because we are not properly prepared and informed on the case.

THE COURT: It's up to you. I can't stop you from dismissing your case if you are going to nolle pros it, but—is—is that your motion?

MS. TENORIO: Yes, Your Honor.

THE COURT: Okay. Case will be nolle prosed.

MR. HILL: Thank you, Your Honor. Your Honor, the $500 bond can be returned?

THE COURT: Yeah. It will be returned to the Defendant. He has appeared. Has not violated, unless you want to contribute it to the judge's retirement fund?

MR. HILL: Worthy cause that it may be, I think Mr. Shortridge would like to have it back.

THE COURT: All right. He can pick it up at the window.

MR. HILL: All right. Thank you.

(Proceedings concluded at 9:32 a.m.)

Appendix F

Taken from Transcript dated 1/14/05 - Page 5

witness cannot be found or if the prosecutor is sick and there are no other prosecutors available, then it would be perfectly okay to ask for an adjournment of the case.

In this instance, not being prepared particularly when you have been the lead prosecutor in the case for, I believe, over two (2) months, she was not in a position to validly even ask the Court for an adjournment. And then basically her attitude was essentially this: if I can't get my way, I'm going to take my ball and go home, which is what she did.

It's--can you imagine, Your Honor, what would happen to the defense attorney who would say to the court, I'm not prepared for trial. I'd like an adjournment and the court refuses then the defense attorneys says, "Well, we are just going to leave and we'll come back when we want to," which is essentially what she's done here. It's an abuse of power.

THE COURT: But prejudice has not attached.

MR. HILL: Well, prejudice has been—

THE COURT: It would not attach until—until a jury was selected—

MR. HILL: No, no, no.

THE COURT: --and you were unable to proceed.

MR. HILL: When the jury is selected, then jeopardy is attached. I'm not bringing a double jeopardy.

Appendix G

Taken from Transcript dated 1/14/04 – Page 10

like to respond—

THE COURT: Which—which case—which date do you want?

MR. HILL: The 28th, however—

THE COURT: All right. January 28th at 8:30..

MR. HILL: --I plan to file another motion regarding the other issues—

THE COURT: You may do that. You can also file your appeal until I get a stay, this case is being tried on January 28th at 8: 30 a.m. Bond is continued.

MR. HAYWOOD: Thank you, Your Honor.

THE COURT: Next case.

(Proceedings concluded at 9:45 a.m.)

Appendix H

Taken from Transcript dated 1/28/05 – Page 3

Southgate, Michigan.

Friday, January 28, 2005 @ 9:47 a.m.

COURT OFFICER: 04-1832SD Samuel Shortridge—Motion.

THE COURT: Okay. We are not going to burn another jury today, are we?

MR. HILL: It's possible, though, we haven't reached that stage,

yet.

Your Honor, as you know, twice before in the previous two (2) cases, I have brought a motion to have the charges dismissed for a lack of proper basis for the stop by the officer's lack of jurisdiction.

THE COURT: Probable cause—sufficient probable cause.

MR. HILL: Right. And so—

THE COURT: I heard—I heard that—

MR. HILL: You've heard it but we need a ruling in this case.

THE COURT: --and I denied it.

MR. HILL: It's denied. Okay.

THE COURT: And I will deny it again in this case, formerly, on the record.

MR. HILL: Very good. And somewhere in my pleadings, I'll look for it, I have an order you can sign --

Appendix I

Taken from Transcript dated 1/28/05 – Pages 5 and 6

address those issues to the Court.

THE COURT: Certainly.

MR. HILL: Okay. And as you know—

THE COURT: The Motion In Limine is? State it specifically. What is your Motion In Limine?

MR. HILL: Number one, I want to preclude the Prosecutor and the police from saying why Mr. Shortridge was stopped, because it's based on the statements of a call to the Southgate Police, which turns out to be unverified. We don't know what officer supposedly made it; we don't know what person supposedly talked to the office and consequently, my client and I have been denied—

THE COURT: Okay. That's one—

MR. HILL: --the opportunity to examine those people.

THE COURT: That's one issue. Any other motions in limine?

MR. HILL: The second motion in limine is to prevent the prosecutor and the witness from—Mr. Shortridge has a prior impaired driving conviction—

THE COURT: That's granted. That's granted. Unless he's being charged as a second—

MR. HILL: Oh, he is.

THE COURT: Oh, he is being charged as a second offense?

MR. SMITH: Yeah, I'm not going to mention it Judge. It's more prejudicial than probative.

THE COURT: Okay. All right.

MR. HILL: And then finally, we have Miranda Right violations and that Mr. Shortridge, when he was initially questioned at his parking lot of his home, was asked why, you know, have you been driving and he said yes; where have you been. The officer claims he said that 7-11 store.

Mr. Shortridge was not informed of his Miranda Rights. He wasn't told he had a right to remain silent and the issue is, in Michigan, is whether somebody is—not whether they are in custody, but whether they feel like they are under the control of the police.

THE COURT: Well, the police have sufficiently focused in on that individual—

MR. HILL: Yes.

THE COURT: As a primary suspect, but my

question is to those statements, how are they incriminating?

MR. HILL: Well, number one, he's charged with the offense of driving while under the influence of intoxicating liquor—

THE COURT: Right. As I recall the—as I recall

Appendix J

Taken from Transcript dated 1/28/05 – Pages 8

are going to take a plea offer.

MR. HILL: But it may influence our decision to have a trial if we know how you are going to rule on that.

THE COURT: I think those comments are, first of all, you know, they are investigatory and then they are preliminary investigation questions and, you know, I don't see anything incriminating in that. He's not saying, "Yeah, I got bombed at the—at the Bomba Shack" or whatever and I had you know, I shouldn't be driving or anything of that nature that would be incriminating if that were the type of answers he gave to the officer without being given Miranda warnings, then I would exclude them. So I'll deny that. Go ahead. I'm granting your motion not to mention the prior conviction; I'm denying that and then let's go back to the first issue.

MR. HILL: First issue, yes, which was whether or not the jury can be told why he was stopped, which obviously is very crucial because if the jurors are told that somebody, a police officer, unknown police officer, claimed that he had had an accident, based on what someone had told the unknown police officer, that could have a profound influence on jurors and it's very unfair to my client.

THE COURT: Here's what I think is fair and I

Appendix K

Taken from Transcript dated 1/28/05 – Page 10

MR. SMITH: That's correct, Your Honor, Curtis W. Smith, P 30511 on behalf of Wayne County Prosecutor's Office. After conversations with Mr. Hill, I extended as I mentioned before, the following offer. Mr. Shortridge is charged with OUIL the second offense enhancement notification, which raises the possible penalties to one year in jail, 5 days to 1 year in jail and enhanced fines and whatnot.

I have agreed to reduce it to a OUIL first offense, which is a 93 day maximum misdemeanor, $500.00 fine. I've also indicated that I would have no objection to a conditional plea, so that Mr. Hill could preserve any issues that would normally be waived when the plea is entered. I understand that Mr. Hill has agreed to accept that offer.

THE COURT: And there is no objections from the police department?

OFFICER BRUCE: None, Your Honor.

THE COURT: Okay. Thank you. And Mr. Hill?

MR. HILL: J. Michael Hill appearing on behalf of the Defendant, P 29769 and Mr. Smith's rendition of our plea bargain is correct. It's my understanding that because he is dismissing his notice of plea enhancement, that the penalties could be no worse than for drunk driving one. And—

Appendix L

Taken from Transcript dated 8/12/04 – Pages 16, 17, 21

REDIRECT EXAMINATION

BY MR. HILL:

Q Is there any reason why you didn't put on your lights or sound your siren?

A He was pulling into the apartment complex and he had—as we were coming up, he was pulling around and going into a closed parking area as I was stopped. We activated the back ones after we had—after the vehicle stopped just so nobody would rear end us.

Q Were you driving at a high rate of speed?

A No.

Q Well, where were you coming from? You were driving southbound—oh, that's right, you were driving northbound on Allen Rod.

THE COURT: Westbound on Superior as I understood it, right?

THE WITNESS: No. I was near Superior when I saw him turning in.

THE COURT: Oh, you were near it.

THE WITNESS: I was southbound from Northline.

THE COURT: I see.

MR. HILL: Okay. So obviously you had to make a U-turn to follow Mr. Shortridge?

A No.

Q Okay. He was going south and you were going north--

A I was going north—

THE COURT: He said south.

Q Oh, you were going south as well?

A Correct.

Q And he was going south?

A Correct.

Q So you had turned on Northline, which was north—

A That's right—

Q --north of Superior?

A Yes.

Q So you were going south as well?

A Correct.

Q So obviously, were you going the same rate of speed as Mr. Shortridge?

A I don't—I don't know.

MR. HILL: Okay. All right. No further questions.

THE COURT: Any re-cross?

MR. LADASZ: None, Your Honor.

THE COURT: Thank you. You may step down, officer. Is he excused? Is Officer Cassette excused? He has other cases—oh.

(Witness excused at 10:04 a.m.)

MR. HILL: I'd like to call Officer Davis next, please.

THE COURT: Officer Davis, raise your right hand to be sworn.

COURT OFFICER: Do you swear the testimony you are about to give in the matters pending before this case will be the truth so held you God?

OFFICER DAVIS: Yes.

OFFICER DAVID DAVIS called as a witness at 10:55 a.m., testified as follows:

THE COURT: Please have a seat at the witness stand. After you are seated, state your name for the record.

THE WITNESS: Patrolman David Davis.

DIRECT EXAMINATION

BY MR. HILL:

Q Trooper what? Or—

A Patrolman David Davis.

Q Okay. Mr. Davis, you're employed as a policeman for the City of Southgate?

A Yes.

Q Okay. And on the 30th of May, 2004, at approximately 1:02, what did you observe?

A A silver vehicle pulling into the ACT—I believe it was ACT I apartments or condos.

Q Okay. And what direction were you and Officer Cassette going?

A Southbound Allen.

Q You were riding with Officer Cassette?

A Yes.

Q Okay. And did you follow his vehicle?

A We went into the parking lot after it, I believe.

Q Okay. And was there anything unusual about the driving of the silver Lincoln?

A Not to my recollection, no.

Q Okay. Now are you personally acquainted with Samuel Shortridge?

A I believe I've had dealing with his in the past, yes.

Q Do you know where he lives?

A In the condos, I believe.

Q And you knew that before May 30th?

A Like I said, I believe I had dealing with him a couple years ago—

Q So you knew where he lived, correct? Before May 30th?

A After—after I saw his driver's license, I said yes.

Q Okay. So did you know that Mr. Shortridge drove this silver Lincoln?

A That night, yes. We had been given a plate of a vehicle that was involved, possibly in a hit and run.

Q Oh, you were given a plate?

A By our dispatch, yes.

Q 'Cause that's not mentioned in the report.

A I didn't write the report.

Q All right. So you had a plate number?

A Yes, we had a plate number.

Q Okay. And did you know—did you know the name of the owner of the plate? At that point?

A You need to be more specific. Did I have—

Q Okay. Based on the plate number that you were given, did you know that was Samuel Shortridge's car?

A Yes.

Q Before you saw the car?

A Did I know it was registered—I know it was registered to a Samuel Shortridge.

Q How did you know this?

A Because we ran the plate in the car. In our in-car computer.

Q Oh, you ran that in the car?

A Yes. We ran the plate on the in-car computer.

Q Okay.

THE COURT: It also has the address of the person?

THE WITNESS: If their Ops code is or their driver's license number is attached to their registration it will show us where they live. It will give us an address.

THE COURT: So you knew the name and the address of the individual?

THE WITNESS: We knew the name and the address.

MR. HILL: So you were heading over to Samuel Shortridge's home.

A We were heading to the address to see if he was home yet.

Q Oh, okay. So you fully intended to go to Taylor?

A Yes.

Q Okay. Now when you arrived at the scene, what—what happened?

A As we turned onto Allen Road from Prechter Boulevard, Officer Cassette—

Q Prechter Boulevard?

A Yes.

Q Okay. Where is Prechter Boulevard?

A It would be about 20 or 30 yards, maybe. Maybe 50 yards.

THE COURT: From Superior?

THE WITNESS: From Superior

Q Okay. And so you were driving west on Prechter Boulevard?

A I believe it was Prechter Boulevard we were on, yes.

Q Okay. And you saw this silver Lincoln?

A Officer Cassette said he did, yes.

Q Oh, did you?

A I saw one that was further up the driveway.

Appendix M

Taken from Transcript dated 1/28/05 – Page 9

have thought about your case and I know the facts. I think the fact that the police were on a BOL, be on the lookout for, this type of vehicle because it allegedly had been involved in an—in an incident is going to be admissible, otherwise, the police have no reason to even be looking at his car while he's driving down the street, right?

MR. HILL: Well, that's what I've been saying all along.

THE COURT: Now, the fact of what the conversation is, is hearsay, between an unknown person that made the call, so therefore, the contents of that conversation are excluded and may not be referred to. Anything else?

MR. HILL: No, nothing else.

THE COURT: Okay, I'll see you in a few minutes.

MR. HILL: Okay.

(Whereupon there was a pause in these proceedings at 9:54 a.m.)

(At 10:18 a.m., proceedings were resumed.)

THE COURT: Back on the record on People versus Samuel Kay Shortridge, 04-1832SD. Today is the date scheduled for jury trial. Gentlemen, it's my understanding I've been handed a

plea agreement. Who is going the place the plea agreement on the record?

Appendix N

Transcription of Southgate Police Department's Tape of May 30, 2004

12:49 a.m.; May 30

Hey, how are you doing? I'm a Southgate police officer. I'm in uniform here. Someone flagged me down. They got hit by a drunk driver. No real damage to their car. But they (unintelligible) license plate. Said this guy was real messed up. He was heading westbound on Northline from the 7-Eleven there at—geez, I don't know the cross street of that.

Okay.

Did you get a license plate?

I'm sorry?

Okay. What kind of car was it?

Excuse me—You know what kind of car it was (unintelligible)?

Silver Mark VIII

A silver Mark VIII

DEE562. Had tinted windows. (Unintelligible)

Was it a hit and run?

A—Yeah. No real damage to his car though. He just said this guy was real drunk though.

(Unintelligible) Send somebody out there?

I'm on my way home right now so (unintelligible).

Did you see it happen?

No, I sure didn't.

Okay, just so I understand. I'll send an officer out there.

Okay. Thanks a lot.

Good-bye.

12:50 a.m.; May 39

Send a Southgate car head up to the 7-Eleven Northline and Fordline; hit and run VA. Vehicle fled westbound on Northline; silver Mark VIII; DEE562; driver was intoxicated.

12:51 a.m.; May 30

(Unintelligible)

Okay.

12:54 a.m.; May 30

We're out with the vehicle at a condo (unintelligible).

Okay.

Are you guys out with it?

They said they're at condos in Taylor.

Okay.

Vehicle came back registered. We're at the main drive right off of Allen Road. We're in the first parking lot with him.

12:56 a.m.; May 30

(Unintelligible)

7-Eleven at Northline and Fordline; right?

Yeah. The victim was supposed to be in the 7-Eleven parking lot.

You got a description or a vehicle or a complainant?

No.

12:58 a.m.; May 30

May be on the way to the way to the station. There is nobody here.

Okay.

12:59 a.m.; May 30

(Unintelligible)

DWL.

Okay, sir.

Okay.

1:01 a.m.; May 30

(Unintelligible)

1:09 a.m.; May 30

(Unintelligible)

1:19 a.m.; May 30

(Unintelligible)

This is the end of copy from complaint 2004-2963. This tape was made by dispatcher Andrea Henderson on May the 30th, 2004.

Appendix O

Michigan Supreme Court
Lansing, Michigan

Chief Justice
Maura D. Corrigan

Justices

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman

OPINION

FILED: JANUARY 23, 2002

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

No. 118615

DONALD ANDREW HAMILTON,

Defendant-Appellee.

PER CURIAM

The circuit court dismissed a drunk driving charge against the defendant because the arrest was made by a police officer acting outside his jurisdiction. The Court of Appeals affirmed. We conclude that the fact that the arrest was made by an officer outside

his jurisdiction does not require exclusion of the evidence obtained as a result of the arrest or dismissal of the charge. We reverse and remand to the circuit court for further proceedings.

I

During the early morning hours of November 21, 1999, city of Howell Police Officer Darren Lockhart observed the defendant driving on M-59 in Howell Township.[1] The officer observed that the vehicle did not have operating taillights and left the pavement and briefly touched the shoulder of the roadway. He stopped the vehicle on suspicion that the driver was operating under the influence of liquor and because the vehicle was being driven without operating taillights. The officer performed sobriety tests and arrested the defendant for OUIL. It was later determined that the defendant had two prior OUIL convictions and that his license had been suspended. This led to his being charged with felony OUIL, third offense, MCL 257.625 (10) (c), and operating a vehicle on a suspended license, MCL 257.904 (3).

The defendant moved to dismiss the charges, claiming that the arrest by the officer outside his jurisdiction was illegal. The district judge disagreed and bound the defendant over to the circuit court. However, the circuit court granted the defendant's motion to quash and dismissed the case.

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[1] In the district court, the parties stipulated to the essential facts.

The prosecutor appealed, and the Court of Appeals affirmed.[2] The Court noted that the prosecutor conceded the officer was not acting in conjunction with the other law enforcement agencies and was not in hot pursuit of the defendant at the time of the stop. It rejected the prosecutor's arguments that the arrest could be justified under MCL 762.3 (3) (a),[3] which relates only to venue and not to the authority of officers to act outside their jurisdictions. The Court also rejected the suggestion that the arrest could be justified on a theory that officers acting outside their jurisdictions have the same authority as private citizens to make arrests for felonies committed in their presence or with probable cause. MCL 764.16. In this case, the Court said that principle was not applicable because the officer did not have probable cause to believe that the defendant had committed a felony. It then turned to the question whether suppression of evidence and dismissal was appropriate as a remedy for the statutory violation. It concluded that suppression of the evidence and dismissal was required.

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[2] Unpublished opinion per curiam, issued January 26, 2001 (Docket No. 225712).

[3] If an offense is committed on the boundary of 2 or more counties, districts or political subdivisions or within 1 mile thereof, venue is proper in any of the counties, districts or political subdivisions concerned.

Ordinarily, this Court reviews a trial court's ruling regarding a motion to suppress for clear error. *People v Burrell*, 417 Mich 439, 448; 339 NW2d 403 (1983).[4] However, the ruling in the present case turns not on factual determinations, but on a question of law, which we review de novo. *People v Sierb*, 456 Mich 519, 522; 581 NW 2d 219 (1998); *People v Denio*, 454 Mich 691, 698; 564 NW2d 13 (1997). As is explained later, the question before us is one of statutory interpretation-whether the Legislature intended that a violation of MCL 764.2a should result in exclusion of evidence obtained as a result of the arrest. *People v Sobczak-Obetts*, 463 Mich 687, 694; 625 NW2d 764 (2001). Such questions of statutory interpretation are also reviewed de novo. *People v Stevens* (After Remand), 460 Mich 626, 631; 597 NW2d 53 (1999).

III

It is undisputed that, at the time of the stop and arrest, Officer Lockhart was acting outside his jurisdiction. MCL 764.2a,[5] captioned authority of peace officers outside their own bailiwicks,

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[4] In this case, the question of suppression of evidence and dismissal of the charge are closely intertwined, as the critical evidence supporting the OUIL charge was obtained as a result of the arrest.

[5] A peace officer of a county, city, village, or township of this state may exercise authority and powers outside his own county, city, village, or township, when he is enforcing the laws of this state in conjunction with the Michigan state police,

provides that police officers may exercise their authority in jurisdictions other than their own if they are working in conjunction with authorities of that other jurisdiction. In this case, the officer was not acting in conjunction in Howell Township, and thus his actions were not within MCL 764.2a. It is also undisputed that the officer did not have a warrant to arrest the defendant or to search his personal property, and that the officer was not in "hot pursuit" of the defendant within the meaning of MCL 117.34.[6]

The officer was acting outside his jurisdiction, without a warrant, not in hot pursuit, and not in conjunction with law enforcement officers having jurisdiction. Thus, as the Court of Appeals recognized, he had no greater authority than a private person. "As a general rule, peace officers who make a warrantless arrest outside their territorial jurisdiction are treated as private

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[5] (...continued)

or in conjunction with a peace officer of the county, city, village, or township in which he may be, the same as if he were in his own county, city, village, or township.

[6] When any person has committed or is suspected of having committed any crime or misdemeanor within a city, or has escaped from any city prison, the police officers of the city shall have the same right to pursue, arrest and detail such person without the city limits as the sheriff of the county.

persons, and, as such, have all the powers of arrest possessed by such private persons." *People v Meyer*, 424 Mich 143, 154; 379 NW2d 59 (1985). Under MCL 761.16, [7] a private person has the authority to make a felony arrest, but lacks the authority to make a misdemeanor arrest except in nonapplicable circumstances. "'No one without a warrant has any right to make an arrest in the absence of actual belief, based on actual facts creating probable cause of guilt.'" *People v Panknin*, 4 Mich App 19, 27; 143 NW2d 806 (1966), quoting *People v Bressler*, 223 Mich 597, 600-601; 194 NW 559 (1923), paraphrasing *People v Burt*, 51 Mich 199, 202; 16 NW 378 (1883). Here, the officer only had probable cause to make an arrest for a misdemeanor, i.e., OUIL. The fact that the defendant may have committed a felony, i.e., OUIL, third offense, was only discovered after the arrest. [8] Accordingly, the officer lacked the statutory authority to make the arrest under MCL 764.16.

The Court of Appeals concluded that because the arrest was illegal, it warranted exclusion of evidence as the remedy.[7] We disagree. That the officer acted without statutory authority does not

---

[7] MCL 764.16 provides in relevant part:

> A private person may make an arrest in the following situations:
>
> (a) For a felony committed in the private person's presence.

necessarily render the arrest unconstitutional. The Fourth Amendment exclusionary rule only applies to constitutionally invalid arrests, not merely statutorily illegal arrests. *People v Lyon*, 227 Mich App 599, 611; 577 NW2d 124 (1998). "The constitutional validity of an arrest depends on whether probable cause to arrest existed at the moment the arrest was made by the officer." Id. Here, the officer did have probable cause to arrest the defendant. The stop of the vehicle was justified because of the apparent equipment defect and the defendant's erratic driving, giving rise to the suspicion that he was operating the vehicle while intoxicated. After the stop, the sobriety tests administered by the officer provided probable cause to arrest the defendant for OUIL.

The key premise of the Court of Appeals decision is that this was an unconstitutional arrest because of the lack of probable cause to arrest for a felony. However, probable cause to arrest for a felony is not required; rather, probable cause that a crime (felony or misdemeanor) has been committed is the constitutional requirement for an arrest. Accordingly, that the officer did not have probable cause to arrest defendant for OUIL, third offense (a

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[7] (...continued)

(b) If the person to be arrested has committed a felony although not in the private person's presence.

felony), does not render the arrest unconstitutional. Instead, that the officer did have probably cause to arrest defendant for OUIL (a misdemeanor) means the arrest did not violate the Fourth Amendment protection against unreasonable seizures. Because the arrest did not violate the Fourth Amendment, the exclusionary rule does not apply here.[8]

A number of decisions establish that statutory violations do not render police actions unconstitutional. For example, in *People v Meyer*, *supra*, an undercover officer participated in a narcotics transaction outside his jurisdiction. Defendant sought to have the resulting charges dismissed. However, as we said: [11]

> The defendant makes no claim that Officer Carpenter's actions in this case resulted in constitutional deprivation to the defendant, and we perceive none. [Id. At 156]

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[8] As the Court of Appeals explained:

The prosecutor admits that the traffic stop was made because the vehicle had no taillights and appeared to be weaving. Viewing a car with no taillights gave Lockhart probably cause to believe that a civil infraction had occurred in his presence. Furthermore, even if the weaving of the vehicle gave Lockhart probable cause to believe that defendant was intoxicated, Lockhart still had no

Similarly, in *People v Burdo*, 56 Mich App 48, 52; 223 NW2d 358 (1974), in the context of an arrest for a misdemeanor not committed in the officer's presence, arguably in violation of MCL 764.14, the Court of Appeals explained:

> Where, as here, the officer had probable cause to believe that the crime had been committed, and therefore had the constitutionally required basis to search and seize, there would appear to be not need to suppress such evidence, even though the arrest was statutorily illegal.

It is clear from previous decisions of this Court that a statutory violation like the one in this case does not necessarily require application of an exclusionary rule. The question in such cases is whether the Legislature intended to apply the drastic remedy of exclusion of evidence. In several recent decisions we

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8 (...continued)

authority to arrest defendant under MCL 764.16; MSA 28.875 because he was not aware that a felony had occurred in his presence. A person guilty of operating a motor vehicle while intoxicated is generally guilty of a misdemeanor. MCL 257.625 (8) (a); MSA 92325 (8) (a). As previously noted, if defendant had been convicted of operating a motor vehicle while intoxicated, he would have been guilty of a felony pursuant to NCL 257.625 (10) (c); MSA 9.2325 (10) (c), because it would have been his third conviction within ten years. However, the lower court record indicates that officer Lockhart was unaware of defendant's previous convictions at the time he stopped and arrested defendant. Therefore, at most, Lockhart had probable cause to believe that a misdemeanor had been committed in his presence. [Slip op at 3-4.]

have found such intent lacking. See *People v Sobczak-Obetts*, *supra* (failure to comply with the statutory requirement that an affidavit in support of a search warrant be left with the defendant at the time of the warrant, MCL 780.654, 780.655); *People v Stevens*, *supra* (failure to comply with the "knock and announce" statute, MCL 780.656, in executing a search warrant).

As in *Sobczak-Obetts* and *Stevens*, we find no indication in the language of MCL 764.2a that the Legislature intended to impose the drastic sanction of suppression of evidence when an office acts outside the officer's jurisdiction. Rather, we believe that the language supports the analysis of several Court of Appeals decisions that the statute was intended, not to create a new right of criminal defendants to exclusion of evidence, but rather to "protect

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[9] The Court of Appeals concluded:

> We find that the information was properly quashed because the exclusionary rule of evidence is applicable in this case. In *Meyer* and *Clark* [*People v Clark*, 181 Mich App 577; 450 NW2d 75 (1989)], the police officers' violations were statutory, not constitutional, because probable cause existed to arrest the defendants for committing felonies. *Meyer*, *supra* at 160; *Clark*, *supra* at 580. Similarly, in [*People v Davis*, 133 Mich App 707; 350 Mich App 707; 350 NW2d 796 (1984)], this Court found that although the police officers may have acted in violation of MCL 764.2a; MSA 28.861(1) in surveilling and arresting the defendant outside their jurisdiction, the exclusionary rule was

the rights and autonomy of local government" in the area of law enforcement. See *People v Clark*, 181 Mich App 577, 581; 450 NW2d 75 (1989); *People v McCrady*, 213 Mich App 474, 480-481; 540 NW2d 718 (1995). [12]

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[9] (...continued)

inapplicable because probable cause existed to arrest the defendant for the commission of a felony. *Davis*, *supra* at 714-715. This Court has stated that "[t]he per se exclusionary rule arose out of and applies to constitutionally invalid arrests. The constitutional validity of an arrest depends on whether probably cause to arrest existed at the moment the arrest was made by the officer." *People v Lyon*, 227 Mich App 599, 611; 577 NW2d 124 (1998). Because probable cause did not exist to arrest defendant for the commission of a felony, his arrest by Officer Lockhart was constitutionally invalid. Thus, the exclusionary rule applied to the evidence against defendant, and the district court abused its discretion by binding defendant over to the circuit court. Accordingly, the circuit court properly quashed the information. [Slip op a 4.]

[10] That the arrest here did not violate the Fourth amendment is further evidenced by the fact that if the Legislature had provided that a municipal police officer like Lockhart could exercise police powers in other jurisdictions within the state. Such an exercise of legislative authority would have been valid and there could have been no constitutional objection to this arrest. Thus, the only violation here is the statutory one based on Lockhart's noncompliance with MCL 764.2a.

IV

Because MCL 764.2a does not require exclusion of evidence obtained as a result of police conduct that is not in accordance with the statute, the circuit court erred in suppressing the evidence and dismissing the charges against the defendant. Accordingly, we reverse the judgment of the Court of Appeals and remand the case to the Livingston Circuit Court for further proceedings.

Corrigan, C. J., and Weaver, Taylor, Young, and Markman, JJ., concurred.

CAVANAGH and KELLY, JJ., would grant leave to appeal, bit would not dispose of this case peremptorily.

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[11] See also *Sobczak*-Obetts, *supra* at 707, contrasting the constitutional violation of a defective search warrant with violations of statutory procedures for executing valid warrants.

[12] Clearly, Officer Lockhart acted here without statutory authority. It is not to condone such activity to conclude that its sanction does not lie with the suppression of evidence. We do not address whether there are any other administrative, civil, or criminal remedies available for failure to comply with MCL 764.2a.

Appendix P

ORDER

Michigan Supreme Court
Lansing, Michigan

May 30, 2006

Clifford W. Taylor,
Chief Justice

130366

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Justices

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

SC: 130366
COA: 266696
Wayne CC: 05-050024-01

SAMUEL KAYE SHORTRIDGE,

Defendant-Appellant.

On order of the Court, the application for leave to appeal the January 5, 2006 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

SEAL OF THE MICHIGAN
Clerk of the
SUPREME COURT – LANSING

I, Corbin R. Davis,

Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 30, 2006

"s/Corbin R. Davis".
Clerk

Appendix Q

Court of Appeals, State of Michigan

ORDER

E. Thomas Fitzgerald
Presiding Judge

People of MI v Samuel Kay Shortridge

Docket No. 266696 Jessica R. Cooper

LC No. 05-050024-01 Pat M. Donofrio
Judges

The Court orders that the application for leave to appeal is DENIED for lack of merit in the grounds presented.

"s/E. Thomas Fitzgerald".
Presiding Judge

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

** COURT OF APPEALS OF THE STATE MICHIGAN ** 1965 **

JAN 05 2006

"s/Sandra Schultz Mengel".
Chief Clerk

Appendix R

STATE OF MICHIGAN
IN THE THIRD JUDICIAL CIRCUIT COURT
CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

Hon. Craig S. Strong
Case No. 05-050024
LC: 04-1832D

-vs-

SAMUEL SHORTRIDGE,

Defendant.

_____/

ORDER

At a session of said court in the
Frank Murphy Hall of Justice on OCT 28 2005

PRESENT: HON. "s/HON. CRAIG S. STRONG".
CIRCUIT COURT JUDGE

On order of the Court, the application for leave to appeal the February 10, 2006 judgment of the 28th District Court is considered and it is DENIED, because this Court is not persuaded that the questions presented should be reviewed by this Court.

DATE OCT 28 2005

"s/Craig Strong".
Circuit Court Judge

Appendix S

STATE OF MICHIGAN CASE NO. **04-1832SD**
28TH JUDICIAL DISTRICT **JUDGMENT OF SENTENCE**
POLICE NO: 200402963 X-REF: 0442750801
Court Address 14720 REAUME PARKWAY
ORI MI MI820175J SOUTHGATE, MI 48195
Court Telephone (734) 258-3068

Defendant's name, address, and phone
(734) 285-4387
14058 JACKSON ST
TAYLOR, MI 48180

CTN/TCN	SID	DOB
820442750801	1643244H	9/11/46

People of STATE OF MICHIGAN V SHORTRIDGE/ SAMUEL/KAY

THE COURT FINDS:

1. Defendant was found guilty on JAN. 28, 2005 of the crime(s) as stated below:

CNT	CONVICTED BY PLEA*	DISMISS COURT	JURY	BY*	CRIME	CHARGE CODE (S) MCL CITATION/PACC
1	G	—	—	—	OPERATING WHILE INTOXICATED	257.6251

*Plea: insert G for guilty plea; NC for nolo contendere; MI for mentally ill

*Dismissed: insert D for by court or NP for by prosecutor/ plaintiff.

2. Defendant was represented by an attorney: J. MICHAEL HILL P-29769

3. Conviction reportable to Secretary of State. Defendant's driver license number is: MI S636758461706

IT IS ORDERED:

9. Defendant shall pay as follows:

CNT	FINE	COSTS	RESTITUTION	ATTY FEES	CRIME VICTIM	STATE COST
1	200.00	475.00	125.00		50.00	45.00

OTHER	TOTAL
1735.00	2,630.00
Balance Due:	$2,630.00

The due date for payment is ____. Fine, costs, and fees not paid within 56 days of the due date are subject to a 20% late penalty on the amount owed.

(X) Defendant shall serve 93 days in jail beginning ___ for failure to pay on time.

10. Defendant shall be placed on probation for 24 months and abide by the terms of probation. (See separate order.)

11. Defendant shall complete the following rehabilitative services:

{ } Alcohol Highway Safety Education

{X} Treatment: {X} outpatient { }inpatient{ }residential{ }mental health.

Specify:

12. The vehicle used in the offense shall be immobilized or forfeited.

(See separate order.)

FEB. 10, 2005 "s/James A. Kandrevas". P-15674
Date Judge JAMES A. KANDREVAS

MCL 765.15(2),MCL 769.16a, MCL 774.22, MCL 790.766, MCL 780.826, MCR 6.427(A), **MC 219** (9/03) **JUDGMENT OF SENTENCE/COMMITMENT TO JAIL**

Appendix T

State of Michigan
28th District Court

The People of the State of Michigan,

Plaintiff,

v Case No. 04-1832SD

Samuel Kaye Shortridge,

Defendant.

Curtis W. Smith P30511	J. Michael Hill And Associates, P.C.
Assistant Wayne County Prosecutor	J. Michael Hill P29769
1441 St. Antoine #1004	Attorney for Defendant
Det MI 48228	7340 Park Avenue
313 224-8861	Allen Park, MI 48101
	313 388-5710

Order Denying Motion To Dismiss For Lack Of Police Jurisdiction And For Lack Of Probable Cause

At a session of said court held in the 28th District Court, Southgate, Michigan on FEB 02 2005

Present: The Honorable James A. Kandrevas
James A. Kandrevas, District Judge

Defendant, Samuel Kaye Shortridge, having brought a motion for dismissal on the grounds that the Southgate police were without authority when they arrested him due to the fact they arrested him in Taylor, Michigan when there were

Southgate police officers; and having further moved for dismissal on the grounds there was no probable cause to stop Mr. Shortridge;

It Is Hereby Ordered that said motion is denied.

"s/James A. Kandrevas".
James A. Kandrevas, District Judge

Approved as to form:
"s/Ron L. Haywood/J.M.H.".
Ron L. Haywood P59777
Assistant Wayne County Prosecutor
(Approved via the fax)

"s/J. Michael Hill".
J. Michael Hill P29769
Attorney for defendant

28th District Court
A True Copy
"s/Stacie Nicole".
Deputy Court Clerk

Appendix U

State of Michigan
28th District Court

The People of the State of Michigan,

Plaintiff,

v Case No. 04-1832SD

Samuel Kaye Shortridge,

Defendant.

Ron L. Haywood P5977
Assistant Wayne County Pros.
1441 St. Antoine #1004
Det MI 48228
313 224-8861

J. Michael Hill And Associates, P.C.
J. Michael Hill P29769
Attorney for Defendant
7340 Park Avenue
Allen Park MI 48101
313 388-5710

Order Denying Motion To Dismiss

At a session of said court held in the 28th District Court, Southgate, Michigan on _____

Present: The Honorable James A. Kandrevas
James A. Kandrevas, District Judge

Defendant, Samuel Kaye Shortridge, having brought a motion for dismissal on the grounds he had been denied a speedy trial because the Wayne County Prosecutor had dismissed the charge on October 29, 2004 because she was unprepared for trial,

and then the Wayne County Prosecutor's Office having reissued another warrant on November19, 2004; and the court having heard oral argument;

It Is Hereby Ordered, for the reasons stated on the record, that defendant's motion is denied.

"s/James A. Kandrevas".
James A. Kandrevas, District Judge

Approved as to form:

"s/Ron L. Haywood/J.M.H.".
Ron L. Haywood P59777
Assistant Wayne County Prosecuting Attorney
(Approved via the fax)

"s/J. Michael Hill".
J. Michael Hill P29769
Attorney for Defendant

28th District Court
A True Copy
"s/Stacie Hureto".
Deputy Court Clerk